$400 MAK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

US LIFE 1 RENDITEFONDS GMBH & CO. KG, US LIFE 2 RENDITEFONDS GMBH & CO. KG, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

THE LINCOLN NATIONAL LIFE INSURANCE COMPANY,

Defendant.

Civil Action No. 17 0307

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs US Life 1 Renditefonds GmbH & Co. Kg ("US Life 1") and US Life 2 Renditefonds GmbH & Co. Kg ("US Life 2"; together, "US Life"), as owners of life insurance policies insuring the life of Ms. Martindale, on behalf of themselves and all others similarly situated, for its Complaint against defendant The Lincoln National Life Insurance Company ("Lincoln"), state as follows:

NATURE OF THE ACTION

1. This is a class action brought by plaintiffs on behalf of themselves and all similarly situated owners of JP Legend 100, 200, 300, and 400 series life insurance policies issued by Jefferson-Pilot Corporation ("Jefferson-Pilot"). Defendant Lincoln is the successor-in-interest to Jefferson-Pilot and in that capacity subjected the plaintiff owners to unlawful cost of insurance ("COI") increases.

2. The policies at issue are all universal life policies (collectively, "UL") issued by Jefferson-Pilot and its affiliated entities ("JP policies"). The principal benefit of UL policies is that, unlike other kinds of whole life insurance that require fixed monthly premium payments,

the premiums required for UL policies are flexible and need only be sufficient to cover the COI charges and certain other specified expenses. The COI charge is typically the highest expense charge that a policyholder pays. As a result, the provision in the policy explaining how and when COI charges can be adjusted is one of the most important terms of the contract.

3. On information and belief, each JP Legend policy in these series states that COI "will be based on our expectation of future mortality, interest, expenses, and lapses," and that "any change" in COI rates "will be on a uniform basis for Insureds of the same rating class." Also on information and belief, each JP Legend policy in these series states that "upon request, we will provide, without charge, an illustration showing projected policy values based on guaranteed as well as current mortality and interest factors."

4. One principal benefit of UL policies is they permit policyholders to pay the minimum amount of premiums necessary to keep the policies in-force. This allows policyholders to minimize their capital investment and generate greater rates of return through other investments. Any premiums paid in excess of COI charges and expense components are applied to a policy's "accumulation account," sometimes known as "policy account" or "cash value." These excess premiums earn interest, often called the credited rate.

5. In August 2016, Lincoln informed owners of JP policies that they would be hit by a large COI rate hike (the "JP-Lincoln COI Rate Hike"). Plaintiffs' COI increases are around 95% in the first year and 50% in the remaining two years of the policy – far beyond what the enumerated factors could justify. The increase also was not uniform among policyholders: The plaintiffs have received an illustration which implies a COI rate of 2.4% per month in policy year 15 (the period from 3/19/2017 to 3/18/2018) at the end of which the insured will be 98 years old. This COI rate is greater than the COI rate implied by the same illustration of 2.0% per month for

policy year 16 (the period from 3/19/2018 to 3/18/2019) at the end of which she will be 99 years old. Greater COI charges at younger ages are illogical and, upon information and belief, have not been replicated across all policyholders of the same rating class.

6. Lincoln's FAQ sheet distributed to agents indicated three reasons for the increase: "Lower investment income as a result of continued low interest rates"; "Updated mortality assumptions, including instances of both higher and lower expected mortality rates versus prior expectations"; and "Updated expenses, including higher reinsurance rates." Yet these factors do not justify the sharp, disparate, and unusually distributed increases imposed upon Plaintiffs. Also on or around at least 2010 through 2014, Lincoln provided the Plaintiffs with illustrations, which reflected no change in future COI rates. Since that date Lincoln has filed interrogatories with the National Association of Insurance Commissioners ("NAIC"), in each year from 2010-2014, stating that it expects mortality experience to improve.

7. The JP-Lincoln COI Rate Hike breached the contracts underlying the JP policies in at least the following respects:

a. Increases were based upon non-enumerated factors

b. Increases were designed to recoup past losses rather than respond to future expectations

c. Increases were non-uniform across insureds of the same rating class; and

d. Lincoln refused to provide an illustration on a policy upon request, which it was required to do even in the absence of a COI rate hike.

8. Additionally, Jefferson-Pilot broke state laws governing misleading advertisement of unrealistic future COI rates, given that it imposed increases that were unjustified by changes in future expectations.

THE PARTIES

9. US Life 1 Renditefonds GmbH ("US Life 1") is a limited liability company registered in Hamburg, Germany. It is the owner of a JP policy insuring the life of Ms. Martindale, a Texas resident, on or about March 19, 2003, with the policy number JP5486401 (the "401 Policy"). The 401 Policy is subject to the 2016 JP-Lincoln COI Rate Hike.

10. US Life 2 Renditefonds GmbH ("US Life 2") is a limited liability company registered in Hamburg, Germany. It is the owner of another JP policy insuring the life of Ms. Martindale, with the policy number JP5480110 (the "110 Policy"). The 110 Policy is subject to the 2016 JP-Lincoln COI Rate Hike. The 401 and 110 Policies are a split of an original larger JP policy, and they both have identical terms.

11. The Lincoln National Life Insurance Company is a life insurance company incorporated under the laws of Indiana, with a principal place of business in Radnor, Pennsylvania. It sent the letters regarding the 2016 JP-Lincoln COI Rate Hike on the Martindale policies.

JURISDICTION AND VENUE

12. This Court has jurisdiction over plaintiffs' claims pursuant to 28 U.S.C. § 1332(d) and 28 U.S.C. §1332(a)(2) because this is a class action with diversity between at least one class member who is a citizen of a foreign state and other states beyond Indiana and Pennsylvania, and one defendant and the aggregate amount of damages exceeds $5,000,000; and the plaintiffs are residents of a foreign state and the amount in controversy exceeds $75,000. This action therefore falls within the original jurisdiction of the federal courts pursuant to the Class Action Fairness Act, 28 U.S.C § 1332(d) and 28 U.S.C. § 1332(a)(2).

13. This Court has general personal jurisdiction over The Lincoln National Life Insurance Company because it maintains its principal place of business in this district, and specific jurisdiction because many of the acts and decisions giving rise to this suit occurred in this District.

14. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) because defendant Lincoln resides in this district, and pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this district, including Lincoln's issuance of the 2016 JP-Lincoln COI Rate Hike.

FACTUAL BACKGROUND

A. The Policies at Issue

15. The policies at issue are UL policies issued by Jefferson-Pilot between 1999 and 2007. These policies are all flexible-premium, universal life policies, and there are no fixed or minimum premium payments specified in the policies.

16. The size of the COI charge is highly significant to Plaintiffs and all UL policyholders for at least two important reasons: (a) the COI charge is typically the highest expense that a policyholder pays; and (b) the COI charge is deducted from the policy account (i.e., the savings component) of the policy, so the policyholder forfeits the COI charge entirely.

17. Jefferson-Pilot's insurance policies (now Lincoln's) limit its ability to increase COI rates. The Martindale Policies contain the following contractual limitations:

> The monthly cost of insurance rates are determined by us. Rates will be based on our expectation of future monthly interest, expenses, and lapses. Any change in the monthly cost of insurance rates used will be on a uniform basis for Insureds of the same rating class.

18. The Martindale Polices also state that "upon request, we will provide, without charge, an illustration showing projected policy values based on guaranteed as well as current mortality and interest factors."

19. On information and belief, all polices hit by the 2016 increase contain the same terms as above. The policies at issue are all form policies, and insureds are not permitted to negotiate different terms. They are all contracts of adhesion.

B. Lincoln's Unlawful COI Increases

20. On September 12, 2016, Lincoln sent increase notices to policyholders of four Jefferson-Pilot product lines, announcing an increase effective October 19, 2016. Lincoln simply pointed to "nearly a decade of persistently low interest rates, including recent historic lows, and volatile financial markets" in explaining the increase.

21. Lincoln told its brokers that the COI increases are the result of

- "Lower investment income as a result of continued low interest rates";
- "Updated mortality assumptions, including instances of both higher and lower expected mortality rates versus prior expectations"; and
- "Updated expenses, including higher reinsurance rates."

C. The COI Increases Are Unlawful

a. The COI Increases Were Not Based on the Enumerated Factors

22. The Jefferson-Pilot contracts governing the UL policies states that "[r]ates will be based on our expectation of future mortality, interest, expenses, and lapses."

23. The 3 factors that Lincoln relies upon to justify the increase could not possibly justify an increase of the size demonstrated by the illustration of the 110 policy. Lincoln has pointed to 3 factors that justify the increase: its estimates for future cost factors of investment

returns, mortality assumptions, and reinsurance costs—but those estimates are not sufficient to and do not justify the large increase imposed on the Martindale Policies (and likely others) of 50-90%.

24. *First*, Lincoln's expectations of future investment returns could not reasonably be materially lower than what Lincoln originally expected – and certainly not nearly so much lower as would be need to justify a massive increase of this size. For example, Lincoln National Corporation's ("LNC," the parent company of Lincoln) Q2 2016 reporting supplement shows a 5.22% earned rate on reserves, a mere tenth of a percent lower than the prior year. Lincoln has not disclosed what its initial investment return assumptions were, but on March 19, 2003, when the policy was issued, five-year US treasury rates were 2.98%, and at the time of the COI increase they were 1.24%, a fall of only 174 basis points, and not sufficient to justify COI increases of up to 90%.

25. *Second*, reinsurance costs cannot provide material support for the increase, and reinsurance costs are not an enumerated factor for an increase. Further, LNC's recent earnings releases do not mention losses due to increased reinsurance costs at all – in fact, its Q4 2014 results show a $53 million profit on recapturing policies from out of reinsurance contracts. Whatever changes there have been in Lincoln's future reinsurance costs cannot have provided material support for the increase.

26. *Third*, Lincoln claims that changing mortality expectations has contributed to some COI increases. But the opposite is true: Lincoln has filled interrogatories with the NAIC in each year from 2010 to 2014 stating that it expects mortality experience to improve. Mortality (normally the most important element in COI charge rates) has continuously *improved* nationwide since the policies were issued.

27. *Fourth*, Lincoln sent the owners several illustrations on the policies, including in 2014 on the 401 policy and in 2010 on the 110 policy, using the pre-increase COI rates. The policies state that the illustrations will be based on "current mortality and interest factors." Mortality experience has not significantly changed since 2010 (or 2014). Since the 2010 and 2014 illustrations were required to reflect "current mortality" in 2010 (and 2014), and they illustrated the prior COI rates using those mortality assumptions, Lincoln's now-current mortality experience (which has not meaningfully changed since 2010 or 2014) cannot justify any significant change in COI rates – and certainly not the massive changes reflected in this increase. Alternatively, if the illustrations did not reflect Lincoln's then-current mortality assumptions in 2010 (or 2014), then all these illustrations breached the contractual provision that the illustrations must be based on "current mortality and interest factors."

28. Finally, changing interest rates, mortality, and reinsurance costs could not possibly justify the large and unusually shaped increase imposed on the Martindale policies. Specifically, no changes in these factors could warrant imposing an increase that would result in Plaintiffs paying higher COI rates when the insured is younger than when she is older. This contradicts reasonable actuarial practice; for example, the Society of Actuaries report of the Individual Life Insurance Valuation Mortality Task Force lists of three basic goals for the mortality table, and the COI rates for the Martindale Policies run contrary to the third: "Mortality for any given attained age should increase with duration since issue." Some other factor must have been included in the increase to generate that strange and illogical shape, and the contract language does not permit such other factors to be used as the basis for a COI increase.

b. The COI Increases Recouped Past Losses

29. The contract requires that "[r]ates will be based on our expectation of *future* monthly interest, expenses, and lapses." This forbids COI increases that are based on a carrier's desire to increase profits or to make up for past losses—a rationale Lincoln admitted to by invoking the past "decade of persistently low interest rates" and "recent historic lows" to justify the increase. Actuarial principles similarly prohibit the carrier from implementing a COI increase that would result in the carrier making more profit on the policies than it originally expected using its original expectations. Further, in its fillings with the NAIC, Lincoln explained that "[c]ost factors that can vary are periodically reviewed and may be adjusted based on changes in prospective assumptions. The adjustments are made in such a way that past losses (ie experience less favorable to the company than expected) are not recouped." The facts stated above, which indicate that a COI increase of this magnitude could not be supported by changes in Lincoln's *future* cost expectations, confirm that Lincoln is increasing its profit targets on an old, closed block. In addition, the illustrations sent in 2010 and 2014 were required to be based on then-current mortality assumptions. Because mortality assumptions have not materially changed since 2010 (or 2014), the new increase massively increases Lincoln's profits on the policies.

c. The COI Increases Were Not Uniform

30. An illustration provided by Lincoln of the COI increase on the 110 Policy shows increases of roughly 95% in the first year and 50% in the remaining two years. The increase also results in the COI rates being higher when the insured is 98 years old than when she is 99 years old. This is illogical and contrary to how the policy was originally priced.

31. The strange and illogical shape resulting from the increase on the 110 policy could not possibly have been replicated for every one of the same rating class. This non-uniform

increase violates the contractual provision stating that "Any change in the monthly cost of insurance rates used will be on a uniform basis for Insureds of the same rate class."

d. Lincoln refused to provide an illustration of the 401 Policy upon request

32. The 110 and 401 Policies were split from the same original Martindale policy, and have demonstrated uniform COI rates prior to the 2016 COI rate-hike.

33. Plaintiffs received upon request in October 2016 a post-COI Rate Hike illustration of the 110 Policy that demonstrated the drastic COI increases discussed herein.

34. Plaintiffs requested an illustration for the 401 policy in January 2017, but Lincoln refused to provide an illustration on the grounds that the policy is in its grace period. But the policy states: "Upon request, we will provide, without charge, an illustration showing projected policy values based on guaranteed as well as current mortality and interest factors. The first illustration in any policy year will be furnished free of charge. Any illustration after the first in any policy year may be obtained for a fee of $10.00."

35. By refusing to provide an illustration, Lincoln breached the contract. Lincoln's companywide refusal to provide illustrations to any policyholder whose policy is in its grace period is in contravention of the same contractual language. During grace period, a policy is considered to be in force.

DAMAGES CLASS ACTION ALLEGATIONS (2016 COI Increase Class)

36. This action is brought by Plaintiffs individually and on behalf of the following class—referred to herein as the "2016 COI Increase Class"—which consists of:

> All owners of universal life insurance policies issued by Jefferson-Pilot Corporation (now The Lincoln National Life Insurance Company) that were subjected to the cost of insurance rate increase announced beginning on or after 2016 (excluding defendant Lincoln, its officers and directors, members of their immediate families, and the heirs, successors or assigns of any of the foregoing).

37. This class consists of thousands of consumers of life insurance and is thus so numerous that joinder of all members is impracticable. The identities and addresses of class members can be readily ascertained from business records maintained by Lincoln.

38. The claims asserted by Plaintiffs are typical of the claims asserted by the 2016 COI Increase Class.

39. Plaintiffs will fairly and adequately protect the interests of the 2016 COI Increase Class and does not have any interests antagonistic to those of the other members of this class.

40. Plaintiffs have retained attorneys who are knowledgeable and experienced in life insurance matters, COI increase matters, as well as class and complex litigation.

41. Plaintiffs request that the Court afford class members with notice and the right to opt-out of any class certified in this action.

42. This action is appropriate as a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure because common questions of law and fact affecting the class predominate over those questions affecting only individual members. Those common questions include:

(a) the construction and interpretation of the form insurance policies at issue in this litigation;

(b) whether Lincoln's actions to increase the cost of insurance charges on certain UL policies violated the terms of those form policies; and

(c) whether Plaintiffs and Class members are entitled to receive damages as a result of the unlawful conduct by defendant alleged herein and the methodology for calculating those damages.

43. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

(a) the complexity of issues involved in this action and the expense of litigating the claims, few, if any, class members could afford to seek legal redress individually for the wrongs that defendant committed against them, and absent class members have no substantial interest in individually controlling the prosecution of individual actions;

(b) when defendant's liability has been adjudicated, claims of all class members can be determined by the Court;

(c) this action will cause an orderly and expeditious administration of the class claims and foster economies of time, effort and expense, and ensure uniformity of decisions;

(d) without a class action, many class members would continue to suffer injury, and defendant's violations of law will continue without redress while defendant continues to reap and retain the substantial proceeds of its wrongful conduct; and

(e) this action does not present any undue difficulties that would impede its management by the Court as a class action.

INJUNCTIVE CLASS ACTION ALLEGATIONS (The "Illustration Grace Class")

44. Plaintiffs reallege and incorporate all allegations of this complaint as if fully set forth herein.

45. This action is brought by Plaintiffs individually and on behalf of the following class—referred to herein as the "Illustration Grace Class"—which consists of:

All policyholders of life insurance policies issued by The Lincoln National Life Insurance Company or its predecessors, successors, or subsidiaries (excluding defendant Lincoln, its officers and directors, members of their immediate families, and the heirs, successors or assigns of any of the foregoing), where such policies include the following language: "Upon request, we will provide … an illustration …."

46. This class consists of thousands of consumers of life insurance and is thus so numerous that joinder of all members is impracticable. The identities and addresses of class members can be readily ascertained from business records maintained by Lincoln.

47. The claims asserted by Plaintiffs are typical of the claims asserted by the Illustration Grace Class.

48. Plaintiffs will fairly and adequately protect the interests of the Illustration Grace Class and do not have any interests antagonistic to those of the other members of this class.

49. Plaintiffs have retained attorneys who are knowledgeable and experienced in life insurance matters as well as class and complex litigation.

50. This action is appropriate as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure because defendant Lincoln has refused to provide illustrations for policies in grace period to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

FIRST CLAIM FOR RELIEF

Breach of Contract against Lincoln (on behalf of Plaintiffs, and the 2016 COI Increase Class)

51. Plaintiffs reallege and incorporate all allegations of this complaint as if fully set forth herein.

52. The subject policies are binding and enforceable contracts.

53. The 2016 COI rate increases have materially breached the policies, and the implied covenant of good faith and fair dealing.

54. Plaintiffs have performed all of their obligations under the policies, except to the extent that their obligations have been excused by Lincoln's conduct as set forth herein. While Plaintiffs have been informed that the policies will lapse in January 2017 without the payment additional premiums incorporating the unlawfully high COI rate, Plaintiffs hereby represent to the Court their intent to maintain the policies at the *lawful* COI rate, and constructively tender to the Court sufficient funds to make such payments.

55. As a direct and proximate cause of Lincoln's material breaches of the policies, plaintiffs and the classes have been—and will continue to be—damaged as alleged herein in an amount to be proven at trial.

SECOND CLAIM FOR RELIEF

Violation of 28 Tex. Admin. Code §§ 21.2206 to 21.2212, Tex. Ins. Code art. 21.21

(Plaintiffs and Texas Subclass)

56. Plaintiffs reallege and incorporate all allegations of this complaint as if fully set forthherein. The Texas Subclass consists of all members of the 2016 COI Increase Class, where the policy was issued for delivery in Texas.

57. The illustration provided to plaintiffs in 2010 showed improperly favorable non-guaranteed elements and illustrated non-guaranteed elements in a misleading manner. For example the illustration provided in 2010 projected a COI charge of 1.4% per month for the period 3/19/2018 – 3/18/2019. Based on this illustration the Plaintiffs continued to pay premiums into the policies, with total premiums paid into the policy of $7,895,875.81 as of October 1, 2016. After the COI increase the plaintiffs ordered a new illustration, which projects a COI charge of 2.0% per month that will be applied for the period 3/19/2018 – 3/18/2019. Subchapter N of the Texas Department of Insurance Trade Practices regulations Rule § 21.2204 requires that

Insurers develop a "Disciplined current scale" to act as a "limit on illustrations." This scale must be "**reasonably** based on actual **recent** historical experience." Rule §21.2204(5) (emphasis added). Insurers may not use an illustration that "depicts performance more favorable to the policy owner." Rule § 21.2206(2)(E) – Prohibited conduct. If Lincoln's justification of the COI increase is to be believed, the illustration provided on or around August 3, 2010, that projected a future COI charge of 1.4% per month, rather than 2.0% per month, depicted performance more favorable to the policy holder than would have been possible using a scale that was reasonably based on their recent experience.

58. Pursuant to Tex. Ins. Code art. 21.21 § 16(b), Plaintiffs and the Texas Subclass are entitled to (1) actual damages plus court costs and reasonable and necessary attorneys' fees, (2) treble damages for a knowing violation, (3) an injunction against the COI increase, and (4) any other relief that the court deems proper.

THIRD CLAIM FOR RELIEF

Injunctive Relief as to Illustrations in Grace Period (on behalf of Plaintiffs, and the Illustration Grace Class)

59. Plaintiffs' contracts state: "Upon request, we will provide, without charge, an illustration showing projected policy values based on guaranteed as well as current mortality and interest factors."

60. Lincoln has refused to provide illustrations for policies in their grace period, stating a company-wide policy that: "While a policy is in a grace period, we are unable to provide an inforce illustration."

61. Lincoln's refusal to provide illustrations while the policy and the underlying contract remain valid represents a clear breach of contract.

62. Plaintiffs therefore seek, on behalf of all Lincoln life insurance policyholders whose contracts contain such language, injunctive relief prohibiting Lincoln from denying illustrations to policyholders during their policies' grace periods.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

1. Declaring this action to be a class action properly maintained pursuant to Rule 23(b)(3) and Rule 23(b)(2) of the Federal Rules of Civil Procedure;

2. Awarding Plaintiffs and the damages class compensatory damages, restitution, disgorgement, and any other relief permitted by law or equity pursuant to the First and Second Claims for Relief;

3. Awarding Plaintiffs and the damages class pre-judgment and post-judgment interest pursuant to their First and Second Claims for Relief, as well as costs, and all other relief set forth above;

4. Awarding Plaintiffs and the injunctive class injunctive or declaratory relief pursuant to the Third Claim for Relief, as well as attorneys' fees and costs; and

4. Awarding Plaintiffs and the classes such other relief as this Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury as to all issues so triable.

Dated: January 20, 2017

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

By: ______________________________

GAETAN J. ALFANO, ESQUIRE
DOUGLAS E. ROBERTS, ESQUIRE
I.D. Nos. : 32971 & 321950
1818 Market Street, Suite 3402
Philadelphia, PA 19103
Tel: 215-998-1441
Fax: 215-754-5181
gja@pietraallo.com

Local Counsel for Plaintiffs

Steven G. Sklaver (*pro hac vice* application to be filed)
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067-6029
Tel: 310-789-3100
Fax: 310-789-3150
ssklaver@susmangodfrey.com

Seth Ard (*pro hac vice* application to be filed)
Lucas Issacharoff (*pro hac vice* application to be filed)
SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Tel.: 212-336-8330
Fax: 212-336-8340
sard@susmangodfrey.com
lissacharoff@susmangodfrey.com

Attorneys for Plaintiffs

JS 44 (Rev. 07/16) MAK

17-cv-00307

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

17 0307

I. (a) PLAINTIFFS
US LIFE 1 RENDITEFONDS GMBH & CO. KG, US LIFE 2 RENDITEFONDS GMBH & CO. KG, US LIFE 3 RENDITEFONDS GMBH & CO. KG, on behalf of themselves and all others similarly situated,

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Gaetan J. Alfano, Esquire
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
1818 Market Street - Suite 3402
Philadelphia, PA 19103
215-988-1441

DEFENDANTS
THE LINCOLN NATIONAL LIFE INSURANCE COMPANY

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)* *(For Diversity Cases Only)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☒ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

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- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. § 1391(b)(1) AND 28 U.S.C. § 1391(b)(2)
Brief description of cause:
Diversity Class Action based on life insurance policies

VII. REQUESTED IN COMPLAINT:
☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*:
JUDGE DOCKET NUMBER

JAN 20 2017

DATE
01/20/2017

SIGNATURE OF ATTORNEY OF RECORD

S.T.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X"
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

MAK MAK

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

17 0307

Address of Plaintiff: 1818 Market Street, Suite 3402, Philadelphia, PA 19103

Address of Defendant: ______

Place of Accident, Incident or Transaction: ______

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☒

Does this case involve multidistrict litigation possibilities? Yes☐ No☒

RELATED CASE, IF ANY:

Case Number: ______ Judge ______

Date Terminated: ______

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☐ No☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☒

CIVIL: (Place X in ONE CATEGORY ONLY)

A. *Federal Question Cases:*
1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) ______

B. *Diversity Jurisdiction Cases:*
1. ☒ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) ______

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, ______, counsel of record do hereby certify:

☒Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☒Relief other than monetary damages is sought.

DATE: 1/20/17 [signature] Id. No. 321950
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

JAN 20 2017

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/20/17 [signature] Id. No. 321950
Attorney-at-Law Attorney I.D.#

CIV. 609 (5/2012)

MAK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

US LIFE 1 RENDITEFONDS GMBH & CO. KG, US, et al.	CIVIL ACTION NO.
vs.	NO. 17 0307
THE LINCOLN NATIONAL LIFE INSURANCE COMPANY,	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos Cases involving claims for personal injury or property damage from exposure to asbestos, ( )

(e) Special Management Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (x)

(f) Standard Management Cases that do not fall into any one of the other tracks. ( )

01/20/2017	**Douglas E. Roberts**	**Plaintiff**
Date	**Attorney-at-Law**	**Attorney for**
215-988-1431	**215-981-00082**	**der@pietragallo.com**
Telephone	**Fax Number**	**E-Mail Address**

(Civ. 660) 10/02

JAN 20 2017